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ATTORNEY'S DOCKET NO.: 2003080-0071 (SK-744-CON4)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Danishefsky *et al.* Examiner: T. Solola
Serial No.: 10/004,571 Group Art Unit: 1626
Filed: December 4, 2001
For: Synthesis of Epothilones, Intermediates Thereto, Analogues and Uses Thereof

ASSISTANT COMMISSIONER FOR PATENTS
WASHINGTON, DC 20231

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FEB 05 2004

Sir:

PETITION UNDER 37 CFR 1.53(e) OFFICE OF PETITIONS

Pursuant to 37 CFR 1.53(e), Applicants hereby petition and submit that Figures 4A and 4B of the specification were actually received by the Patent and Trademark Office, as evidenced by the date-stamped postcard (Exhibit A attached) specifically itemizing the materials filed on December 4, 2001. Specifically, the formal drawings filed with the application on December 4, 2001, included Figures 4A and 4B (as evidenced by the postcard showing the serial number and the filing and receipt date of said application *and* 76 sheets of formal documents).

In addition to this petition, as required by 37 CFR 1.53(e), Applicants have enclosed a check for the petition fee of \$130.00 as set forth in 37 CFR 1.17(h), and have submitted evidence of deposit (37 CFR 1.181(f)) (date stamped postcard indicating receipt of the formal drawings) of the formal drawings, filed with the entire application package on December 4, 2001.

Applicants respectfully submit that, as stated in MPEP § 503, "A postcard receipt which itemizes and properly identifies the items which are being filed serves a *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO." As detailed on the copy of the return postcard submitted herewith, the Patent and Trademark Office acknowledged (by the date stamped thereon by the PTO, including the serial number) that all sheets of the formal drawings were received on December 4, 2001.

In view of the fact that Applicants have submitted evidence that the purported omitted item was in fact deposited in the Patent and Trademark Office simultaneously with the

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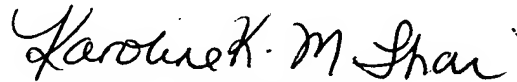
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Adjust date: 06/16/2004 AXELLEY 00007350
06/10/2002 BNGUYEN1 00000096 10004571
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Name/Number: 10004571 \$130.00 CR
Ref: 06/16/2004 AXELLEY 00007350
DAH: 031721
FC: 9204

application papers, on December 4, 2001, Applicants respectfully request acknowledgement by the Patent and Trademark Office that these items were indeed received (Figures 4A and 4B), and Applicants additionally specifically request a refund of the petition fee to our deposit account 03-1721. Applicants have additionally re-submitted a copy of Figures 4A and 4B herewith.

The deadline for response to the Notice to File Corrected Application Papers is Sunday, May 19, 2002. Applicants submit that this response, filed on Monday, May 20, 2002, is filed on the first business day following the due date, and is thus timely.

Please charge any additional fees that may be associated with this matter, or credit any overpayments to our Deposit Account No. 03-1721.

Respectfully submitted,

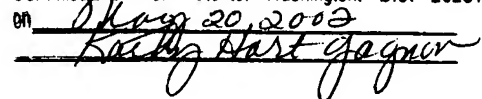


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Dated: May 20, 2002

3399442_1.DOC

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Assistant Commissioner For Patents, Washington, D.C. 20231 on May 20, 2002



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UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/004,571	12/04/2001	Samuel J. Danishefsky	2003080-0071

24280
Choate, Hall & Stewart
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Boston, MA 02109

CONFIRMATION NO. 6609

FORMALITIES LETTER



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OFFICE OF PETITIONS

Date Mailed: 03/19/2002



NOTICE TO FILE CORRECTED APPLICATION PAPERS

Filing Date Granted

This application has been accorded an Application Number and Filing Date. The application, however, is informal since it does not comply with the regulations for the reason(s) indicated below. Applicant is given **TWO MONTHS** from the date of this Notice within which to correct the informalities indicated below. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a)

The required item(s) identified below must be timely submitted to avoid abandonment:

- Substitute drawings in compliance with 37 CFR 1.84 because:
 - drawing sheets do not have the appropriate margin(s) (see 37 CFR 1.84(g)). Each sheet must include a top margin of at least 2.5 cm. (1 inch), a left side margin of at least 2.5 cm. (1 inch), a right side margin of at least 1.5 cm. (5/8 inch), and a bottom margin of at least 1.0 cm. (3/8 inch);

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The following item(s) appear to have been **omitted** from the application:

JUN 11 2002

- Figure(s) **4A & 4B** described in the specification.

OFFICE OF PETITIONS

I. Should applicant contend that the above-noted omitted item(s) was in fact deposited in the U.S. Patent and Trademark Office (USPTO) with the nonprovisional application papers, a copy of this Notice and a petition (and \$130.00 petition fee (37 CFR 1.17(h))) with evidence of such deposit **must** be filed within **TWO MONTHS** of the date of this Notice. The petition fee will be refunded if it is determined that the item(s) was received by the USPTO.

II. Should applicant desire to supply the omitted item(s) and accept the date that such omitted item(s) was filed in the USPTO as the filing date of the above-identified application, a copy of this Notice, the omitted item(s) (with a supplemental oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such items), and a petition under 37 CFR 1.182 (with the \$130.00 petition fee (37 CFR 1.17(h))) requesting the later filing date **must** be filed within **TWO MONTHS** of the date of this Notice.

III. The failure to file a petition (and petition fee) under the above options (I) or (II) within **TWO MONTHS** of the date of this Notice (37 CFR 1.181(f)) will be treated as a constructive acceptance by the applicant of the application as deposited in the USPTO. **THIS TWO MONTH PERIOD IS NOT EXTENDABLE UNDER 37 CFR 1.136(a) or (b).** In the absence of a timely filed petition in reply to this Notice, the application will maintain a filing

date as of the date of deposit of the application papers in the USPTO, and original application papers (*i.e.*, the original disclosure of the invention) will include only those application papers present in the USPTO on the date of deposit.

In the event that applicant elects not to take action pursuant to options (I) or (II) above (thereby constructively electing option (III)), amendment of the specification to renumber the pages consecutively and cancel incomplete sentences caused by any omitted page(s), and/or amendment of the specification to cancel all references to any omitted drawing(s), relabel the drawing figures to be numbered consecutively (if necessary), and correct the references in the specification to the drawing figures to correspond with any relabelled drawing figures, is required. Any drawing changes should be accompanied by a copy of the drawing figures showing the proposed changes in red ink. Such amendment and/or correction to the drawing figures, if necessary, should be by way of preliminary amendment submitted prior to the first Office action to avoid delays in the prosecution of the application.

*A copy of this notice **MUST** be returned with the reply.*



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Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE